

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NEPTUNE TECHNOLOGIES &)
BIORESSOURCES, INC.,)
)
Plaintiff,) C.A. No. 11-895-GMS
)
v.)
)
ENZYMOTEC LIMITED, ENZYMOTEC USA,)
INC., MERCOLA.COM HEALTH RESOURCES,)
LLC and AZANTIS INC.)
)
Defendants.)

STIPULATION AND ORDER STAYING CASE

WHEREAS on October 4, 2011, plaintiff Neptune Technologies & Bioressources, Inc. ("Neptune") filed a Complaint in this action against defendants Enzymotec Limited, Enzymotec USA, Inc., Mercola.com Health Resources, LLC, and Azantis Inc. (collectively "Defendants") for patent infringement (D.I. 1);

WHEREAS on December 30, 2011, defendants Enzymotec USA, Inc. and Mercola.com Health Resources filed Answers to the Complaint and Counterclaims (collectively "Counterclaims") against Neptune in this action (D.I. 11; D.I. 13);

WHEREAS on December 30, 2011, defendants Enzymotec Limited and Azantis Inc. filed a motion with a supporting brief and declarations to dismiss the Complaint in this action for lack of jurisdiction over the person ("Motion to Dismiss") (D.I. 15; D.I. 16);

WHEREAS, Defendants planned to file a motion to stay the above action until final conclusion of the pending *inter partes* reexamination of the patent-in-suit, U.S. Patent No. 8,030,348 (the "'348 patent"), including all appeals;

WHEREAS, to resolve the Defendants' planned motion, the parties have agreed that:

- (1) the case should be stayed until the PTO issues an Action Closing Prosecution in the *inter partes* reexamination of the '348 patent;
- (2) Defendants shall not use the fact of the stay or Neptune's consent to the stay in support of any position in any reexamination proceeding involving any Neptune patent or in any litigation in which Neptune is a party;
- (3) the deadlines for Neptune's response to defendants Enzymotec Limited and Azantis's Motion to Dismiss (D.I. 15) and reply to defendants Enzymotec USA, Inc. and Mercola.com Health Resources LLC's Counterclaims (D.I.11) shall be suspended during the pendency of this stipulation, and throughout any stay period ordered by the Court; and
- (4) During the pendency of the stay, the parties will not initiate communications with each other's clients concerning this action or the *inter partes* re-examination, including by letter, telephone, e-mail or other electronic means.

NOW THEREFORE, it is hereby stipulated and agreed, subject to the approval and Order of the Court, as follows:

1. The present action is stayed for all purposes until the PTO issues an Action Closing Prosecution in the *inter partes* reexamination of the '348 patent.
2. Within ten (10) days of issuance of such Action Closing Prosecution, the parties will contact the Court to request a teleconference to report on the status of the reexamination.

ASHBY & GEDDES

/s/ *John G. Day*

John G. Day (I.D. #2403)
Lauren E. Maguire (I.D. #4261)
Andrew C. Mayo (I.D. #5207)
500 Delaware Avenue, 8th Floor
P.O. Box 1150
Wilmington, DE 19899
(302) 654-1888
jday@ashby-geddes.com
lmauguire@ashby-geddes.com
amayo@ashby-geddes.com

Attorneys for Plaintiff

MORRIS JAMES LLP

/s/ *Kenneth L. Dorsney*

Richard K. Herrmann (I.D. #405)
Mary B. Matterer (I.D. No. 2696)
Kenneth L. Dorsney (I.D. No. 3726)
500 Delaware Avenue, Suite 1500
Wilmington, DE 19899-2306
(302) 888-6800
rherrmann@morrisjames.com
mmatterer@morrisjames.com
kdorsney@morrisjames.com

Attorneys for Defendants

IT IS SO ORDERED this 16^t7 day of Feb, 2012.


Chief Judge